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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/625,184

07/23/2003

Eugenio Sergio Longo

D-43481-01

8237

7590

07/25/2007

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EXAMINER

MIGGINS, MICHAEL C

ART UNIT

PAPER NUMBER

1772

MAIL DATE

DELIVERY MODE

07/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/625,184

Applicant(s)

LONGO ET AL.

Examiner

Michael C. Miggins

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-14 and 16-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14 and 16-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/4/07 has been entered.

## **REJECTIONS WITHDRAWN**

2. All of the 103(a) rejections previously set forth in the final rejection of 11/30/06, pages 2-3, paragraphs 3-4 have been withdrawn.

## **REJECTIONS REPEATED**

3. There are no rejections repeated.

## **NEW REJECTIONS**

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8, 10-14, 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wirth (US 5171640) in view of Beuzelin et al. (GB 2288177, cited by applicant) and Gusavage et al. (EP 0 707 955, cited by applicant).

Wirth discloses multilayer materials containing ethylene/vinyl alcohol copolymer (a) and styrene-based polymer layers (b) in a b/a/c structure (see claim 7 at col. 6). The materials exemplified, maleic anhydride modified styrene (column 2, lines 20-32), includes ones in which the (b) layer is 69 to 79% of the total material (see col. 3, Table 1), based upon the thickness of the (b) layers and the sum of the thicknesses of all layers, with the modified styrene-based polymer being present in the outer bonding layer in a ratio with respect to the weight of the gas-barrier resin of at least 0.1:1 (since layer (a) has a thickness of from 20 to 1500 microns and layer (b) has a thickness of from 100 to 1500 microns, column 2, lines 11-32).

Wirth does not disclose that the modified styrene based polymer having polar groups thereon.

Beuzelin et al. disclose the modified styrene based polymer having polar groups thereon (page 7, line 24 through page 8, line 9) in a food/tray type container (page 1, lines 7-15 and page 15, lines 17-23) for the purpose of providing improved adhesive strength and resistance to separation of layers (page 15, lines 17-23).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided the modified styrene based polymer having polar groups thereon in the multilayer materials of Wirth in order to provide

improved adhesive strength and resistance to separation of layers as taught or suggested by Beuzelin.

Beuzelin discloses a polystyrene layer as a substrate (page 13, lines 9-15).

Wirth fails to disclose multi-layer materials wherein the overall thickness is from about 10 to 80 microns and wherein the substrate comprises foam.

Gusavage discloses multi-layer materials wherein the overall thickness is from about 10 to 80 microns (since 57 microns is disclosed, see page 8, Example 1) and wherein the substrate comprises foam (abstract) in a food packaging material (page 2, lines 5-10) for the purpose of providing reduced blistering (page 2, lines 26-30) and to lower cost of production by reducing the amount of materials consumed.

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided multi-layer materials wherein the overall thickness is from about 10 to 80 microns and wherein the substrate comprises foam in the multi-layer material of Wirth in order to provide reduced blistering and to lower cost of production by reducing the amount of materials consumed as taught or suggested by Gusavage.

### **ANSWERS TO APPLICANT'S ARGUMENTS**

6. Applicant's arguments of 6/4/07 have been carefully considered but are moot in view of the new grounds for rejection set forth above.

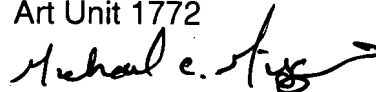
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Miggins  
Primary Examiner  
Art Unit 1772



MCM  
June 11, 2007